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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED-2020-OSERS-0011]

Proposed Priorities, Requirements, and Definitions--
Rehabilitation Training: Vocational Rehabilitation
Technical Assistance Center--Quality Management; and
Vocational Rehabilitation Technical Assistance Center--
Quality Employment

AGENCY: Office of Special Education and Rehabilitative
Services (OSERS), Department of Education.

ACTION: Proposed priorities, requirements, and
definitions.

SUMMARY: The Assistant Secretary for Special Education and
Rehabilitative Services proposes priorities, requirements,
and definitions to fund a Vocational Rehabilitation
Technical Assistance Center for Quality Management (VRTAC-
QM) and a Vocational Rehabilitation Technical Assistance
Center for Quality Employment (VRTAC-QE), Catalog of
Federal Domestic Assistance (CFDA) numbers 84.264J and
84.264K. The Assistant Secretary may use these priorities,
requirements, and definitions for competitions in fiscal
year (FY) 2020 and later years. We take this action to
focus Federal financial assistance on identified national

needs and to improve employment outcomes under the Vocational Rehabilitation (VR) program and raise expectations for all people with disabilities. We intend the VRTAC-QM to provide training and technical assistance to State VR agencies that will better enable VR personnel to manage available resources, improve effective service delivery, and increase the number and quality of employment outcomes for individuals with disabilities. We intend the VRTAC-QE to provide training and technical assistance to State VR agencies that will better enable VR personnel, especially VR counselors, to implement innovative and effective VR and employment strategies and practices to increase the number and quality of employment outcomes for individuals with disabilities.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Help."

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments for 84.264J, address them to Douglas Zhu, U.S. Department of Education, 400 Maryland Avenue, SW, room 5095, Potomac Center Plaza, Washington, DC 20202-2800. If you mail or deliver your comments for 84.264K, address them to Felipe Lulli, U.S. Department of Education, 400 Maryland Avenue, SW, room 5101, Potomac Center Plaza, Washington, DC 20202-2800.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For 84.264J: Douglas Zhu, U.S. Department of Education, 400 Maryland Avenue, SW, room 5095, Potomac Center Plaza, Washington, DC 20202-2800.

Telephone: (202) 245-6037. Email: 84.264J@ed.gov. For

84.264K: Felipe Lulli, U.S. Department of Education, 400 Maryland Avenue, SW, room 5101, Potomac Center Plaza, Washington, DC 20202-2800. Telephone: (202) 245-7425. Email: 84.264K@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding these proposed priorities, requirements, and definitions. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, and definitions, we urge you to identify clearly the specific priority, requirement, or definition that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 13771 and their overall requirement of reducing regulatory burden that might result from these proposed priorities, requirements, and definitions. Please let us know of any ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priorities, requirements, and definitions by accessing Regulations.gov. You may also inspect the comments in person in room 5059, 550 12th Street, SW, Washington, DC, between the hours of 9:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities, requirements, and definitions. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: Under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), the Rehabilitation Services Administration (RSA) makes grants to States and public or nonprofit agencies and organizations (including institutions of higher education) to support projects that provide training and technical assistance designed to assist in increasing the numbers of, and upgrading the

skills of, qualified personnel (especially rehabilitation counselors) who are trained to--

(1) Provide vocational, medical, social, and psychological rehabilitation services to individuals with disabilities;

(2) Assist individuals with communication and related disorders; and

(3) Provide other services authorized under the Rehabilitation Act.

Program Authority: 29 U.S.C. 772(a)(1).

Applicable Program Regulations: 34 CFR part 385.

PROPOSED PRIORITIES:

This notice contains two proposed priorities.

Background:

Amendments to the Rehabilitation Act made by WIOA place heightened emphasis on expanding quality employment and career advancement opportunities for individuals with disabilities, with a focus on competitive integrated employment as defined in the Rehabilitation Act.

Consistent with WIOA's amendments to the Rehabilitation Act, the State Vocational Rehabilitation Services program (VR program) operates under the principle that individuals with disabilities, including those with significant and the most significant disabilities, are capable of quality

employment outcomes when provided appropriate services, skills, and supports. WIOA places certain limitations on subminimum wage employment. WIOA also emphasizes pre-employment transition services for students with disabilities, supported employment for individuals with the most significant disabilities, customized employment, and coordinated strategies such as career pathways to help individuals with disabilities realize employment goals consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. The VRTAC-QM and the VRTAC-QE will assist State VR agencies in equipping, and increasing the number of, personnel with the necessary skills and training to implement these expanded provisions in the Rehabilitation Act made by WIOA.

State VR agency personnel have experienced several challenges in implementing these expanded provisions. As of October 2019, 31 of 78 VR agencies were unable to serve all eligible individuals due to a lack of financial and staff resources and have thus introduced orders of selection, closed one or more priority categories, and limited the provision of services to eligible individuals based on the significance of their disabilities. Eight of these VR agencies have closed all priority categories,

meaning that they are not providing services to new applicants for the VR program.

VR agencies are implementing orders of selection for two main reasons, one being the inability to provide the non-Federal share required as match for the VR program, which prevents them from accessing all available Federal VR program funds, and the other being the requirement to reserve at least 15 percent of Federal VR program funds for providing pre-employment transition services to eligible and potentially eligible students with disabilities, which restricts the amount of VR program funds available to serve all other eligible individuals with disabilities. Consequently, fewer eligible individuals are being served, and the number of employment outcomes has declined.

Based on data reported by VR agencies through the VR program Case Service Report (RSA-911) for program year (PY) 2017 (July 1, 2017 - June 30, 2018) and PY 2018 (July 1, 2018 - June 30, 2019), the number of individuals with disabilities determined eligible for the VR program decreased from 414,531 to 398,205. Additionally, the number of participants in the VR program (those eligible individuals who received VR services under an Individualized Plan for Employment) decreased from 932,835 to 916,083.

While the employment rate or rehabilitation rate is not one of the WIOA primary indicators of performance, it may nevertheless inform an assessment of the performance of the VR program because it indicates whether participants are employed at the time, they exit the VR program. The VR program's employment rate decreased from 49.3 percent in PY 2017 to 47.6 percent in PY 2018. In the same period, the number of participants exiting with employment outcomes fell from 152,425 to 142,722. Relatedly, the number of participants who exited the VR program for any reason decreased from 311,748 to 300,794 in the same timeframe.

Given all of this, VR agency personnel need program and resource management strategies and skills to efficiently and effectively balance the provision of VR services, including pre-employment transition services to potentially eligible students with disabilities and eligible individuals with disabilities, to ensure that individuals with disabilities are served appropriately and without delay. Absent the commitment and ability of VR staff to use resources effectively and efficiently, VR agencies will not have the funds or staff resources to provide individuals with disabilities with timely services of high quality, and the number of individuals who turn to the VR program in their search for services leading to

quality employment will decline further. VR personnel need to learn strategies to balance the needs of all populations seeking services, including students, youth, and adults with disabilities, and to provide timely and relevant services to meet their unique needs.

The focus on serving individuals with significant and the most significant disabilities, coupled with the expectations under the Rehabilitation Act to achieve quality competitive employment outcomes and career advancement, also require VR agency personnel, especially VR counselors, to learn and employ innovative service strategies and practices.

For example, recent data for PYs 2017 and 2018 provided by VR agencies through the RSA-911 indicate that fewer than one-quarter (21.1 percent and 23.1 percent, respectively) of participants who were enrolled in an education or training program leading to a recognized postsecondary credential or employment achieved a measurable skill gain (MSG). An MSG is documented academic, technical, occupational, or other form of progress that participants achieve towards a recognized postsecondary credential or employment. The MSG rate is one of the primary indicators of performance under section 116 of WIOA. The VR program's performance, in the first

two years of data collection and reporting, suggests that strategies and services aimed at assisting individuals with disabilities in achieving MSGs as they pursue recognized postsecondary credentials or employment may be underutilized or underreported.

Next, in PY 2018, State VR agencies collected and reported available data through the RSA-911 for two additional indicators of performance: Employment Rate in the Second Quarter after Exit and Median Earnings in the Second Quarter after Exit. The national employment rate for the VR program was 49.2 percent in the second quarter after exit (i.e., fewer than half of VR program participants were employed in the second quarter after exiting the VR program with an employment outcome). These individuals achieved median earnings of \$3,714 for the quarter, which translates into annual median earnings of roughly \$14,856. These data appear to indicate that the employment outlook for individuals with disabilities served by the program are not significantly improving and that there is a need for greater utilization of more effective interventions by VR personnel.

Further, through its monitoring of VR agencies, RSA has made numerous observations and findings related to VR program performance.

Despite updates in VR agency policies that reflect the expanded provisions of the Rehabilitation Act, some VR counselors reported during RSA monitoring that they have struggled to implement policies and strategies that lead to the intended quality employment outcomes for those they serve.

Under section 302 of the Rehabilitation Act, the RSA Commissioner may make grants or enter into contracts to provide training and technical assistance designed to increase the numbers of, and upgrade the skills of, qualified VR counselors and other VR service providers. In coordination and collaboration with other RSA-funded technical assistance centers, the VRTAC-QM will provide training and technical assistance to State VR agencies that will better enable VR personnel to manage the VR program and available resources and thus improve service delivery to individuals with disabilities.

The VRTAC-QE will bring together the broad range of existing quality employment strategies and supporting practices, identify and implement new ones, and incorporate them into an integrated training and technical assistance plan, consistent with the circumstances and priorities of each State that requests technical assistance. This will enable State VR personnel to implement innovative and

effective VR employment strategies and better serve individuals with disabilities.

Both the VRTAC-QM and the VRTAC-QE will generate additional resources, create new information and tools, and expand collaborative partnerships.

Projects must be awarded and operated in a manner consistent with the nondiscrimination requirements mandated by the U.S. Constitution and Federal civil rights laws.

Specific Requests for Comment:

The Department is particularly interested in comments on Proposed Priority 1 regarding the best way to prioritize among VR agencies needing intensive TA. We are also interested in comments regarding whether the activities identified reflect the greatest needs in the field.

Proposed Priority 1:

Vocational Rehabilitation Technical Assistance Center for Quality Management.

The Assistant Secretary for Special Education and Rehabilitative Services proposes to fund a cooperative agreement to establish a Vocational Rehabilitation Technical Assistance Center for Quality Management (VRTAC-QM).

The VRTAC-QM will provide intensive training and technical assistance, targeted training and technical

assistance, and universal training and technical assistance to State VR agencies on quality management strategies that will enable VR agencies to improve service delivery to, and employment outcomes achieved by, individuals with disabilities. For States that request intensive training and technical assistance, the training and technical assistance will upgrade and increase the competencies, skills, and knowledge of VR personnel, enabling them to assess current VR program performance and to identify the strengths, weaknesses, opportunities for improvement, and threats (SWOT) that impact the effectiveness of VR agency service delivery and the quality of employment outcomes. This SWOT assessment will be based on a review of a wide variety of information sources, including, but not limited to, RSA's monitoring findings and recommendations; State audit reports; consumer feedback provided in public hearings and through consumer satisfaction surveys; results of comprehensive statewide needs assessments; and input from workforce partners, community rehabilitation programs, and other VR stakeholders. Based on SWOT assessments, the center and VR agency personnel will develop individualized intensive training and technical assistance agreements designed to provide personnel with skills and strategies they need to address the weaknesses identified in the SWOT

assessments to improve service delivery and employment outcomes for individuals with disabilities. The center will also provide VR agency personnel with technical assistance on evaluating whether the quality management strategies they adopt lead to increasing the percentage of participants who achieve an MSG and exit the program with an employment outcome and to modify those strategies, if necessary, to achieve continuous program improvement. In addition to the intensive training and technical assistance, the VRTAC-QM also will provide targeted training and technical assistance and universal training and technical assistance to State VR agencies on a broad range of quality management strategies and practices, both programmatic and fiscal, to address needs common to many agencies.

With regard to program management and performance, the VRTAC-QM's training and technical assistance will support the assessment, development, and enhancement of staff knowledge, skills, and abilities to perform the following functions in order to improve service delivery and employment outcomes for individuals with disabilities:

- Analyzing the State VR agency's comprehensive system of personnel development to identify strengths and weaknesses in staff's ability to understand and address

factors affecting program performance, and designing management strategies to address these deficits.

- Analyzing case service data to identify trends and inconsistencies in program performance, and developing strategies to improve the effectiveness and timeliness of services provided, including addressing inconsistencies in the quality and quantity of employment outcomes achieved by various groups of individuals with disabilities served by the program.

- Understanding statutory and regulatory requirements related to performance management, including calculations for the common performance measures required under WIOA and factors that may be affecting the agency's performance on these measures.

- Conducting quality assurance and performance improvement, including the use of data for performance management systems and the implementation of the common performance measures required by WIOA.

- Strategic planning to address aspects of the SWOT assessment that pose challenges and barriers to improving service delivery and employment outcomes for individuals with disabilities, particularly students and youth with

disabilities and individuals with significant and the most significant disabilities.

- Implementing effective and efficient policies for delivering pre-employment transition services under section 113, VR services under section 103(a), and supported employment services under title VI of the Rehabilitation Act.

- Understanding the relationship to important outcomes of various cost containment measures, such as implementing an order of selection giving priority for services to individuals with the most significant disabilities, establishing a financial needs test for various services, implementing policies for consumer participation in the cost of services, and implementing the requirement to seek comparable services and benefits for certain services, among others.

Under the VR program, agencies must comply with several complex Federal fiscal requirements related to maintenance of effort, reallotment, reservation of funds for pre-employment transition services, and match, among others. VR agencies must understand, track, assess, and adjust, when necessary, program activities to meet these requirements while maximizing program outcomes.

Additionally, the lack of knowledge and skills in fiscal

and resource management can negatively affect the ability of VR agency personnel to meet consumer needs, for example, necessitating the implementation of orders of selection limiting the numbers of eligible individuals served in the VR program. With regard to effective resource management, the training and technical assistance will support the assessment, development, and enhancement of staff knowledge, skills, and abilities to ensure that--

- Resources, including program funds and personnel, are being used for allowable purposes and innovative employment strategies and supports that maximize employment outcomes for individuals with disabilities, including students and youth with disabilities and individuals with significant and the most significant disabilities;

- Programs have sound internal controls and reliable reporting systems upon which to base fiscal and programmatic decision-making to support attainment of program goals and objectives, including those related to increasing the numbers and qualifications of service delivery personnel; and

- Resources, including program funds and personnel, are maximized for program needs.

The following are examples of activities the VRTAC-QM may undertake to address weaknesses in resource management:

- Assess grantee financial management processes used to support attainment of fiscal and programmatic outcomes (for example, whether an agency's fiscal processes support the accurate tracking and reporting of non-Federal funds to maximize the drawdown of Federal award funds to support attainment of employment outcomes). The assessment will be used to identify areas for improvement in fiscal processes that will assist the agency in meeting program goals.

- Assess personnel training and technical assistance needs to identify gaps in fiscal knowledge, skills, and abilities that prevent the agency from effective and efficient resource utilization necessary to achieve employment outcomes.

- Provide intensive training and technical assistance on financial planning to maximize program resources and attainment of program goals and objectives, maximizing opportunities for funds matching, avoiding potential maintenance of effort and match penalties, and meeting the reservation of funds requirement for pre-employment transition services in order to increase resources available for service delivery.

- Provide technical assistance on implementing Federal, State, and program fiscal requirements, including internal controls, in an efficient and effective manner to reduce unnecessary burden and to focus efforts on program outcomes.

- Provide technical assistance on the identification, collection, and analysis of program and fiscal data necessary for program management and maximizing available resources to support consumer services.

Proposed Project Requirements:

To meet the requirements of this priority, the VRTAC-QM must, at a minimum, conduct one or more of the following activities:

- (1) Establish a committee on quality management of State VR programs that meets at least semi-annually to obtain individual advice and recommendations for the project.

The committee must include, but is not limited to, individuals with disabilities, representatives from State VR agencies, stakeholders, and individuals with subject matter expertise in improving outcomes through effective program and resource management and in employment strategies for people with disabilities. At a minimum, the committee members will provide individual input and

recommendations pertaining to the implementation of the project and the project evaluation and quality assurance plan.

(2) Establish a state-of-the-art website and information technology (IT) platform for communicating with State VR agencies and ensure that all products produced by the VRTAC-QM and posted on the website meet government and industry-recognized standards for accessibility.

The website will become a key training and technical assistance delivery vehicle; a major communication center for the VRTAC-QM and State VR agencies; and the central repository of information about quality management strategies and practices that will form the basis for intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance.

(3) Complete a comprehensive review of programmatic and fiscal quality management strategies and practices for VR services for individuals with disabilities to achieve employment outcomes and develop an overarching training and technical assistance plan for the project. Both the review and the plan must be made available to the public, as appropriate.

The purpose of the review is to identify those strategies and practices for inclusion in VRTAC-QM's overarching training and technical assistance plan. The center will develop an analytical framework and selection criteria against which to evaluate potential strategies and practices. The analysis will focus on: State VR agency needs and priorities, up-to-date information on quality management strategies and practices that have proven to be effective in the field of rehabilitation as well as other public and private sectors of the economy that may have applicability to the management of VR agencies, and quantitative and qualitative research on the effectiveness of the identified strategies and practices in order to improve service delivery and employment outcomes for individuals with disabilities.

Sources of information used for this review may include: State VR agency interviews and consultations; information from such sources as the RSA-911 Case Service Report aggregate data, general labor market data and information, Unified or Combined State Plans, and RSA monitoring reports; and information and resources generated by technical assistance centers funded by the U.S. Departments of Education, Labor, and Health and Human Services.

The overarching training and technical assistance plan must include, at a minimum--

(a) Quality management strategies and practices that result in improved service delivery and employment outcomes for individuals with disabilities, including the rationale for their selection;

(b) Conceptual framework for the selected strategies and practices, including key assumptions, expectations, and presumed relationships or linkages among strategies and practices;

(c) Nature and scope of the intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance to be provided in support of the selected strategies and practices; and

(d) Protocols and timelines for requesting and obtaining training and technical assistance.

(4) Provide intensive training and technical assistance to State VR agencies.

Intensive training and technical assistance will be provided to increase State VR agencies' capacity to adopt, expand, or sustain programmatic and fiscal quality management strategies and practices that improve the quality of service delivery and employment outcomes.

Intensive training and technical assistance will be provided on-site, over an extended period, under the terms of signed intensive training and technical assistance agreements between the VRTAC-QM and the participating State VR agencies. Numerical targets for the number of intensive training and technical assistance agreements will be included in the cooperative agreement between RSA and the VRTAC-QM. Agreements will reflect the participating VR agencies' needs and priorities, goals, and objectives. They must include the following components:

(a) Quality management strategies and practices to be implemented by the State VR agency and that result in improved service delivery and employment outcomes.

(b) Nature and scope of the training and technical assistance to be provided by the VRTAC-QM.

(c) Roles and responsibilities of the VRTAC-QM, State VR agency, and other workforce development partners, including the commitment of resources.

(d) Logic model¹ that includes: performance outcomes, targets, and baselines; project activities, inputs, and outputs; and data collection and analysis commitments.

¹ "Logic model" (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (i.e., the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the

The intensive training and technical assistance agreements will be developed based on the VRTAC-QM and participating VR agency's review and analysis of such information sources as Unified or Combined State Plans; RSA-911 and other performance data; general labor market data and information; RSA monitoring reports; State audit reports; and a review of pertinent Federal, State, and local resources in the State, including existing employment and training programs.

(5) Provide targeted training and technical assistance and universal training and technical assistance on programmatic and fiscal quality management strategies and practices that lead to effective and efficient service delivery and quality employment outcomes.

(6) Coordinate training and technical assistance with other technical assistance centers.

The VRTAC-QM must coordinate the provision of training and technical assistance with the Vocational Rehabilitation Technical Assistance Center for Quality Employment and other RSA-funded technical assistance and training centers. This coordination is particularly critical when developing intensive training and technical assistance agreements with

theoretical and operational relationships among the key project components and relevant outcomes.

the VR agencies to avoid confusion and duplication of efforts. The VRTAC-QM must also coordinate with other technical assistance centers funded by the U.S. Departments of Education, Labor, and Health and Human Services.

(7) Present at a national conference or regional forums or specialized meetings in the fifth year of the grant to disseminate the VRTAC-QM's summative findings and results.

The primary objectives are to help State VR agencies to expand and sustain their VRTAC-QM programmatic and fiscal management strategies and practices that result in improved service delivery and employment outcomes by promoting an exchange of ideas and experiences with other participating VR agencies and to encourage other State VR agencies to consider adopting VRTAC-QM strategies and practices. In addition, the VRTAC-QM will explore cost-effective approaches such as virtual convenings to engage VR agencies and partners who may be unable to attend in-person meetings.

(8) Develop a plan for an evaluation, including a timeline for the evaluation and measurement benchmarks, that will determine the relationship between the center's training and technical assistance on the service delivery and employment outcomes achieved by the VR agencies that

received the center's services. This should be done through an analysis of the quality, relevance, and usefulness of VRTAC-QM training and technical assistance activities designed to improve State VR agencies' program and resource management and lead to improved service delivery and achievement of high-quality employment outcomes and career advancement.

Specific Requests for Comment:

The Department is particularly interested in comments on Proposed Priority 2 regarding whether the employment strategies and supporting practices identified reflect the greatest needs in the field. We are also interested in comments on whether the list of activities reflects the greatest needs in the field.

Proposed Priority 2:

Vocational Rehabilitation Technical Assistance Center for Quality Employment.

The Assistant Secretary for Special Education and Rehabilitative Services proposes to fund a cooperative agreement to establish a Vocational Rehabilitation Technical Assistance Center for Quality Employment (VRTAC-QE).

The purpose of the VRTAC-QE is to upgrade and increase the competencies, skills, and knowledge of VR personnel to

implement and sustain employment strategies and supporting practices that enable individuals with disabilities to achieve quality employment and career advancement, particularly competitive integrated employment as defined in the Rehabilitation Act. The center will include strategies and practices that meet the needs and promote the quality employment of individuals with significant and the most significant disabilities, students and youth with disabilities, and traditionally underserved populations. The VRTAC-QE will implement a coordinated plan to provide intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance to State VR agencies on a broad range of employment strategies and supporting practices.

Employment strategies for consideration include, but are not limited to, the following:

- (a) Career pathways education, training, and supports in high-demand occupations, including those in science, technology, engineering, and mathematics (STEM) fields.

- (b) Registered and industry-recognized apprenticeships, pre-apprenticeships, and on-the-job training.

- (c) Supported employment and customized employment.

(d) Customized training and credential programs to meet employer demand.

(e) Self-employment and entrepreneurship, including services available under the Randolph-Sheppard Vending Facility Program.

(f) Business engagement and employer supports, including dual customer models such as Progressive Employment.

Supporting practices for consideration include, but are not limited to, the following:

(1) Practices to enhance the employment capacity of individuals with the most significant disabilities receiving supported employment services, such as the Individual Placement and Support model.

(2) Pre-employment transition services that prepare students with disabilities and transition services that prepare youth with disabilities to identify career interests through work-based learning and early career exploration opportunities, including internships and job shadowing, with a focus on high-demand and STEM careers.

(3) Career counseling techniques and resources, including labor market information tools such as Career Index Plus.

(4) Strategies involving workforce development partners, community rehabilitation programs, and other community-based organizations to provide the comprehensive support services that individuals with significant and the most significant disabilities need to succeed, such as the Integrated Resource Teams model.

(5) Approaches that encourage VR clients to enter and remain engaged in the VR process, such as rapid engagement, motivational interviewing, benefits counseling, and financial empowerment training, and vehicles such as the Achieving a Better Life Experience (ABLE) tax-free accounts for individuals with disabilities.

(6) Community outreach strategies to expand the pool of potential VR applicants and referral sources, including traditionally underserved populations.

Proposed Project Requirements:

To meet the requirements of this priority, the VRTAC-QE must, at a minimum, conduct one or more of the following activities:

(1) Establish a state-of-the-art website and IT platform for communicating with State VR agencies and ensure that all products produced by the VRTAC-QE and posted on the website meet government and industry-recognized standards for accessibility.

The website will become a key training and technical assistance delivery vehicle; a major communication center for the VRTAC-QE, State VR agencies, workforce partners, and other professionals; and the central repository of information about employment strategies and practices that will form the basis for intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance.

(2) Complete a comprehensive review of effective strategies and practices leading to quality employment for individuals with disabilities and develop an overarching training and technical assistance plan for the project. Both the review and the plan must be made available to the public, as appropriate.

The purpose of the review is to identify employment strategies and supporting practices for inclusion in VRTAC-QE's overarching training and technical assistance plan. The center will develop an analytical framework and selection criteria against which to evaluate potential strategies and practices. The analysis will focus on: State VR agency needs and priorities; up-to-date information on national trends, barriers, challenges, and opportunities regarding quality employment for individuals with disabilities, including factors leading to successful

employment of individuals with significant and the most significant disabilities, students and youth with disabilities, and traditionally underserved populations; and quantitative and qualitative research on the effectiveness of the identified strategies and practices.

Sources of information for this review may include, but are not limited to, State VR agency interviews and consultations; analyses of aggregate RSA-911 Case Service Report data, Unified or Combined State Plans, and RSA monitoring reports; information and tools generated by RSA's vocational rehabilitation technical assistance centers and special demonstration projects, available on the National Clearinghouse of Rehabilitation Training Materials website; and other resources funded by the U.S. Departments of Education, Labor, and Health and Human Services, and institutions of higher education.

The overarching training and technical assistance plan must include, at a minimum--

- (a) Employment strategies and supporting practices, including the rationale for their selection;

- (b) Conceptual framework for the selected strategies and practices, including key assumptions, expectations, and presumed relationships or linkages among strategies and practices;

(c) Nature and scope of the intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance to be provided in support of the selected strategies and practices; and

(d) Protocols and timelines for requesting and obtaining training and technical assistance.

(3) Provide intensive training and technical assistance to State VR agencies.

Intensive training and technical assistance will be provided to increase the capacity of State VR agencies to adopt, expand, or sustain employment strategies and supporting practices that improve the quality of employment outcomes. Intensive training and technical assistance will be provided on-site, over an extended period, under the terms of signed intensive training and technical assistance agreements between the VRTAC-QE and the participating State VR agencies. Numerical targets for the number of intensive training and technical assistance agreements will be included in the cooperative agreement between RSA and the VRTAC-QE. Agreements will reflect the participating VR agencies' needs and priorities, goals, and objectives. They must include the following components:

(a) Employment strategies and supporting practices to be implemented by the State VR agency.

(b) Nature and scope of the training and technical assistance to be provided by the VRTAC-QE.

(c) Roles and responsibilities of the VRTAC-QE, State VR agency, and other workforce development partners, including the commitment of resources.

(d) Logic model² that includes: State-specific performance outcomes, targets, and baselines; project activities, inputs, and outputs; and data collection and analysis commitments.

The intensive training and technical assistance agreements will be developed based on the VRTAC-QE and participating VR agency's review and analysis of such information sources as Unified or Combined State Plans; RSA-911 and other performance data; RSA monitoring reports; relevant labor market information; and a review of pertinent Federal, State, and local resources in the State, including existing employment and training programs.

² "Logic model" (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (i.e., the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Intensive training and technical assistance will be implemented in coordination with, and leveraging the resources of, State and local workforce and other partners.

(4) Provide targeted training and technical assistance meeting the identified needs of a limited number of State VR agencies, as well as universal training and technical assistance broadly available to all State VR agencies and their partners.

(5) Coordinate training and technical assistance with other technical assistance centers.

The VRTAC-QE must coordinate the provision of training and technical assistance with the Vocational Rehabilitation Technical Assistance Center for Quality Management and other RSA-funded training and technical assistance investments. This coordination is particularly critical when developing intensive training and technical assistance agreements with the VR agencies to avoid confusion and duplication of efforts. The VRTAC-QE must also coordinate with other training and technical assistance resources funded by the U.S. Departments of Education, Labor, and Health and Human Services, and other pertinent Federal or State organizations, as appropriate.

(6) Disseminate VRTAC-QE summative findings and results through a national conference or regional forums or

specialized meetings in the fifth year of the grant. The primary objectives are to help State VR agencies to expand and sustain their VRTAC-QE strategies and practices and to encourage other State VR agencies to consider adopting some VRTAC-QE strategies and practices by promoting an exchange of ideas and experiences with other participating VR agencies. To maximize the dissemination of project findings and results in the fifth year, the VRTAC-QE will explore cost-effective approaches such as virtual convenings to engage VR agencies and partners who may be unable to attend in-person meetings.

(7) Develop a plan for an evaluation, including a timeline for the evaluation and measurement benchmarks, that will assess VRTAC-QE employment strategies and supporting activities' relationship to VR participants' employment outcomes and career advancement. The evaluation will also assess the quality, relevance, and usefulness of the VRTAC-QE's training and technical assistance in improving State VR agencies' ability to identify and implement the appropriate strategies and practices.

Proposed Application Requirements:

The following proposed application requirements apply to both priority 1 and priority 2. RSA encourages

innovative approaches to meet these requirements.

Applicants must--

(a) Demonstrate, in the narrative section of the application under "Quality of the Evaluation Plan," how the proposed project will meet the evaluation requirements of the priority. Applicants must describe the anticipated implementation steps, milestones, and timelines for the development of a logic model for the project. The logic model must include data elements, inputs, activities, outputs, and short-term and long-term performance indicators regarding--

(1) Quantitative outcomes resulting from the program management or employment strategies and practices, including--

(i) Quality and timeliness of the VR processes and services;

(ii) Number and quality of employment outcomes;

(iii) VR participants' employment or career-readiness;

(iv) Cost-effectiveness; and

(v) Sustainability;

(2) Quality, relevance, and usefulness of the project's training and technical assistance activities;

(3) Quantitative or qualitative insights about the relationship between strategies, practices, and training

and technical assistance activities on critical outcomes for VR personnel, VR clients, and key partners, including through--

- (i) Pre- and post-training assessments;
- (ii) Comparison groups;
- (iii) Focus groups; or
- (iv) Success stories.

(b) Demonstrate, in the narrative section of the application under "Adequacy of Project Resources," how the applicant will ensure that--

(1) The proposed project will encourage applications for employment from persons who are members of groups that have historically been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) Projects will be operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and the Federal civil rights laws;

(3) Key project personnel, consultants, and subcontractors have the qualifications and experience to meet all the requirements of the priority, including expertise in--

(i) Programmatic areas addressed in the Project Requirements section of the priority;

(ii) Program and resource management and oversight;
(iii) Knowledge translation and dissemination,
including the effective use of communication technologies;
and

(iv) Project evaluation leading to continuous
improvement, including qualitative and quantitative
assessments;

(4) The applicant and key partners have adequate
resources to carry out the proposed project activities, and
achieve anticipated project outcomes and impact on the VR
services to individuals with disabilities, including
assurances that the proposed allocation of human and
financial resources for project evaluation will be enough
to meet the requirements in section (a) of the application
requirement regarding the "Quality of the Evaluation Plan,"
above; and

(5) The proposed costs are reasonable in relation to
the anticipated results and benefits.

(c) Demonstrate, in the narrative section of the
application under "Quality of the Management Plan," how the
applicant will ensure that--

(1) The project's intended outcomes, including
implementation of the evaluation plan, will be achieved on
time and within budget, through--

(i) Clearly defined responsibilities of key project personnel, consultants, and contractors, as applicable;

(ii) Procedures to track and ensure completion of the action steps, timelines, and milestones established for key project activities, requirements, and deliverables, in accordance with the cooperative agreement between RSA and the applicant;

(iii) Internal monitoring processes to ensure that the project is being implemented in accordance with an established project performance plan, including timelines and milestones; and

(iv) Financial and budgetary oversight processes to ensure timely obligations and reporting of grant funds, in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200 and the terms and conditions of the Federal award;

(2) The allocation of key project personnel, consultants, and contractors--including levels of effort of key personnel--will be appropriate and adequate to achieve the project's intended outcomes, including an assurance that key personnel will have enough availability to ensure timely communications with stakeholders and RSA;

(3) The proposed management plan will ensure that the products and services are of high quality, relevance, and usefulness, in both content and delivery; and

(4) The proposed project will benefit from a diversity of perspectives, including those of State and local personnel, providers, researchers, and policy makers, among others, in its development and operation.

Additional Proposed Application Requirements for Proposed Priority 1:

The following proposed application requirements apply only to proposed priority 1. RSA encourages innovative approaches to meet these requirements. Applicants must--

(a) Demonstrate, in the narrative section of the application under "Significance of the Project," how the proposed project will increase State VR agencies' capacity to improve the quality of VR services and employment outcomes for individuals with disabilities by enabling VR agencies to develop and implement efficient and effective program and resource management techniques leading to increases in the numbers and improved skills of VR counselors and other service delivery personnel. To meet this requirement, the applicant must demonstrate knowledge about--

(1) State VR program challenges, opportunities, barriers, and trends regarding program and resource management or quality employment outcomes for individuals with disabilities including those with significant and the most significant disabilities, students and youth with disabilities, and traditionally underserved populations; and

(2) Federal, State, and nongovernment initiatives to promote program and resource management and quality employment outcomes for individuals with disabilities, particularly in response to requirements under WIOA. The applicants must demonstrate--

(i) The proposed project's potential to contribute to these Federal, State, and nongovernment initiatives by assisting State VR agencies in equipping personnel with the necessary skills and training to implement the substantive provisions of the Rehabilitation Act introduced by WIOA that are designed to improve the quality of employment outcomes for individuals with disabilities; and

(ii) How the proposed project will increase State VR agencies' capacity to implement program and resource management strategies leading to improved VR services, employment outcomes, and career advancement opportunities for individuals with disabilities.

(b) Demonstrate, in the narrative section of the application, under "Quality of Project Services," how the proposed project will achieve the goals, objectives, and intended outcomes of this priority. To meet this requirement, the applicant must describe its plan for implementing the project, including major implementation activities, timelines, and milestones (particularly for the initial fiscal year), as well as key assumptions and expectations, presumed relationships or linkages among variables, and underlying rationale and empirical support, for the following Project Requirements of the priority:

(1) State-of-the-art website. Applicants must describe how the website will serve as an effective communication center, training and technical assistance delivery vehicle, and repository of information about quality management or employment strategies and practices, including--

(i) Expected features and capabilities, including information-delivery and stakeholder-convening technologies; and

(ii) Anticipated uses of such features and capabilities in support of the project goals and objectives.

(2) Comprehensive review. Applicants must describe how the comprehensive review will provide the factual basis for the project training and technical assistance plan. At a minimum, the comprehensive review must include--

(i) Input from State VR agencies about their needs, priorities, and innovative approaches to program and resource management that lead to improved service delivery;

(ii) Information regarding the latest--

(A) National trends, barriers, challenges, and opportunities;

(B) Effective and efficient program and resource management strategies, techniques, and practices that may be applicable to State VR agencies; and

(C) Additional information that the applicant deems relevant;

(iii) An analytical framework for assessing the collected information and selecting the program and resource management strategies and practices for inclusion in the training and technical assistance plans.

(3) Provision of intensive training and technical assistance. Applicants must describe how the intensive training and technical assistance agreements will increase State VR agencies' capacity to improve the State VR

agencies' performance and quality employment outcomes for individuals with disabilities, through State-appropriate--

- (i) Program and resource management;
- (ii) Federal, State, and local partnerships; and
- (iii) Performance outcomes, outputs, inputs, targets, baselines, and data collection requirements.

(4) Provision of targeted training and technical assistance and universal training and technical assistance. Applicants must describe how each training and technical assistance modality (targeted or universal) will help State VR agencies to adopt, expand, and sustain program and resource management practices. For each training and technical assistance modality, describe--

- (i) Topics, activities, and products;
- (ii) Intended audience and outreach strategies;
- (iii) Content delivery and dissemination methods; and
- (iv) Steps to ensure quality, relevance, and usefulness.

(5) Coordination. The applicant must describe how it will maximize coordination between the VRTAC-QE and the VRTAC-QM and seek opportunities to coordinate with other training and technical assistance investments, including those funded by the U.S. Departments of Education, Labor,

and Health and Human Services, in the provision of training and technical assistance to State VR agencies.

(6) National conference, regional forums, or specialized meetings in the fifth year of the grant performance period. Applicants must describe how the project will disseminate its summative findings and results, including cost-effective approaches such as virtual convenings to engage State VR agencies and other potential Federal, State, local, and nongovernment partners, including--

(i) Types of events (e.g., conferences, forums, specialized meetings);

(ii) Target audience (e.g., by event type); and

(iii) Convening modes (in-person, virtual); and

(c) Demonstrate, in the narrative section of the application under "Quality of the Evaluation Plan," the applicant's capacity and experience in addressing the State VR agencies' training and technical assistance needs in the areas of program and resource management, including but not limited to strategic planning and performance improvement leading to performance improvement, including SWOT assessment related to implementing strategies that ensure education funds are spent in a way that increases their

efficiency and cost-effectiveness, including by reducing waste or achieving better outcomes.

Additional Proposed Application Requirements for Proposed Priority 2:

The following proposed application requirements apply only to proposed priority 2. RSA encourages innovative approaches to meet these requirements. Applicants must--

(a) Demonstrate, in the narrative section of the application under "Significance of the Project," how the proposed project will increase State VR agencies' capacity to improve the quality of VR services and employment outcomes for individuals with disabilities by enabling VR agencies to develop and implement innovative employment and support strategies that are designed to improve employment outcomes and career advancement for individuals with disabilities. To meet this requirement, the applicant must demonstrate knowledge about--

(1) State VR program challenges, opportunities, barriers, and trends regarding program and resource management or quality employment outcomes for individuals with disabilities including those with significant and the most significant disabilities, students and youth with disabilities, and traditionally underserved populations; and

(2) Federal, State, and nongovernment initiatives to promote program and resource management and quality employment outcomes for individuals with disabilities, particularly in response to requirements under WIOA. The applicants must demonstrate--

(i) The proposed project's potential to contribute to these Federal, State, and nongovernment initiatives by assisting State VR agencies in equipping personnel with the necessary skills and training to implement the substantive provisions of the Rehabilitation Act introduced by WIOA that are designed to improve the quality of employment outcomes for individuals with disabilities; and

(ii) How the proposed project will increase State VR agencies' capacity to implement employment strategies and supporting practices leading to improved VR services, employment outcomes, and career advancement opportunities for individuals with disabilities

(b) Demonstrate, in the narrative section of the application, under "Quality of Project Services," how the proposed project will achieve the goals, objectives, and intended outcomes of this priority. To meet this requirement, the applicant must describe its plan for implementing the project, including major implementation activities, timelines, and milestones (particularly for the

initial fiscal year), as well as key assumptions and expectations, presumed relationships or linkages among variables, and underlying rationale and empirical support, for the following Project Requirements of the priority:

(1) State-of-the-art website. Applicants must describe how the website will serve as an effective communication center, training and technical assistance delivery vehicle, and repository of information about quality management or employment strategies and practices, including--

(i) Expected features and capabilities, including information-delivery and stakeholder-convening technologies; and

(ii) Anticipated uses of such features and capabilities in support of the project goals and objectives.

(2) Comprehensive review. Applicants must describe how the comprehensive review will provide the factual basis for the project training and technical assistance plan. At a minimum, the comprehensive review must include--

(i) Input from State VR agencies about their needs, priorities, and innovative approaches to program and resource management that lead to quality employment and career-readiness that lead to quality employment outcomes;

(ii) Information regarding the latest--

(A) National trends, barriers, challenges, and opportunities;

(B) Effective employment strategies and practices that prepare individuals with disabilities to compete in the global economy and designed to create or expand innovative and affordable paths to relevant careers through postsecondary credentials or job-ready skills; and

(C) Additional information that the applicant deems relevant; and

(iii) An analytical framework for assessing the collected information and selecting the employment and career-readiness strategies and practices for inclusion in the training and technical assistance plans.

(3) Provision of intensive training and technical assistance. Applicants must describe how the intensive training and technical assistance agreements will increase State VR agencies' capacity to improve the State VR agencies' performance and quality employment outcomes for individuals with disabilities, through State-appropriate--

(i) Employment strategies and supporting practices;

(ii) Federal, State, and local partnerships; and

(iii) Performance outcomes, outputs, inputs, targets, baselines, and data collection requirements.

(4) Provision of targeted training and technical assistance and universal training and technical assistance. Applicants must describe how each training and technical assistance modality (targeted or universal) will help State VR agencies to adopt, expand, and sustain employment strategies and practices that improve employment outcomes and career advancement opportunities for eligible VR participants. For each training and technical assistance modality, describe--

- (i) Topics, activities, and products;
- (ii) Intended audience and outreach strategies;
- (iii) Content delivery and dissemination methods; and
- (iv) Steps to ensure quality, relevance, and usefulness.

(5) Coordination. The applicant must describe how it will maximize coordination between the VRTAC-QE and the VRTAC-QM and seek opportunities to coordinate with other technical assistance centers, including those funded by the U.S. Departments of Education, Labor, and Health and Human Services, in the provision of training and technical assistance to State VR agencies.

(6) National conference, regional forums, or specialized meetings in the fifth year of the grant performance period. Applicants must describe how the

project will disseminate its summative findings and results, including cost-effective approaches such as virtual convenings to engage State VR agencies and other potential Federal, State, local, and nongovernment partners, including--

- (i) Types of events (e.g., conferences, forums, specialized meetings);
- (ii) Target audience (e.g., by event type); and
- (iii) Convening modes (in-person, virtual).

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(a)); or (2) selecting an application that

meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

PROPOSED DEFINITIONS:

Background:

We propose the following definitions for use with these proposed priorities. We propose these definitions to ensure that applicants have a clear understanding of how we are using these terms.

Intensive training and technical assistance means training and technical assistance provided to State VR agencies and State VR agency personnel primarily on-site over an extended period. Intensive training and technical assistance is based on an ongoing relationship between the training and technical assistance center staff and State VR agencies and State VR agency personnel under the terms of a signed intensive training and technical assistance agreement.

Targeted training and technical assistance means training and technical assistance based on needs common to

one or more State VR agencies and State VR agency personnel on a time-limited basis and with limited commitment of training and technical assistance center resources. Targeted training and technical assistance are delivered through virtual or in-person methods tailored to the identified needs of the participating State VR agencies and State VR agency personnel.

Universal training and technical assistance means training and technical assistance broadly available to State VR agencies and State VR agency personnel and other interested parties through their own initiative, resulting in minimal interaction with training and technical assistance center staff. Universal training and technical assistance includes generalized presentations, products, and related activities available through a website or through brief contacts with the training and technical assistance center staff.

Final Priorities, Requirements, and Definitions: We will announce the final priorities, requirements, and definitions in a notice in the *Federal Register*. We will determine the final priorities, requirements, and definitions after considering responses to the proposed priorities, requirements, and definitions and other information available to the Department. This document

does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use these priorities, requirements, or definitions, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another

agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

OMB has determined that this proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new rule must be fully offset by the elimination of existing costs through deregulatory actions. However, Executive Order 13771 does not apply to "transfer rules" that cause only income transfers between taxpayers and program beneficiaries, such as those regarding discretionary grant programs. Because the proposed priorities, requirements, and definitions would be utilized in connection with a discretionary grant program, Executive Order 13771 does not

apply.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to

direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing the proposed priorities, requirements, and definitions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We have also determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities. The costs would include the time and effort in responding to the priority for entities that choose to respond.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of this document. The benefits include receiving comments regarding the best way to prioritize among VR agencies needing intensive TA and whether the activities identified reflect the greatest needs in the field.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency to write regulations that are easy to understand. The Secretary invites comments on how to make these proposed priorities, requirements, and definitions easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in the SUPPLEMENTARY INFORMATION section of the preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the ADDRESSES section.

Regulatory Flexibility Act Certification: The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small

businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this proposed regulatory action would affect are public or private nonprofit agencies and organizations, including Indian Tribes and institutions of higher education that may apply. We believe that the costs imposed on an applicant by the proposed priorities, requirements, and definitions would be limited to paperwork burden related to preparing an application and that the benefits of these proposed priorities, requirements, and definitions would outweigh any costs incurred by the applicant. There are very few entities who could provide the type of technical assistance required under the proposed priorities. For these reasons these proposed priorities, requirements, and definitions would not impose a burden on a significant number of small entities.

Paperwork Reduction Act of 1995: The proposed priorities,

requirements, and definitions contain information collection requirements that are approved by OMB under OMB control number 1820-0018.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 385. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e-4, the Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the *Federal Register* by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schultz,
*Commissioner, Rehabilitation
Services Administration.
Delegated the authority to perform
the functions and duties of the
Assistant Secretary for the Office
of Special Education and
Rehabilitative Services.*

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